

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

Before the Court is Charles Kenneth Brady's motion to vacate, set aside or correct sentence brought pursuant to 28 U.S.C. § 2255. Brady pled guilty, pursuant to a written plea agreement, to one count of possession of material involving the sexual exploitation of minors. He was sentenced to 78 months imprisonment on August 9, 2005. He is currently serving his sentence at the Federal Correctional Institute in Fort Worth, Texas. No direct appeal was taken. The § 2255 motion was filed on July 27, 2006. Brady alleges ineffective assistance of counsel. 1.

The Court has reviewed the motion as required by Rule 4 of the Rules Governing Section 2255 Proceedings and finds (1) the motion is not plainly defective on its face as it alleges cognizable constitutional violations and is in the proper form, (2) Brady is in custody pursuant to a federal judgment, (3) the motion has been brought within the one year statute of limitation, and (4) as this is the first § 2255 motion Brady has filed in this case it is obviously not a successive or second motion which would require authorization from the Eighth Circuit.

Without passing on the merits of the motion, the Court does Order that the United States file an answer with the Court within sixty (60) days from the date of this Order. The answer shall comply with the requirements of Rule 5 of the Rules Governing Section 2255 Proceedings. Brady will have 30 days from the date the United States' answer is filed to file a reply.

**IT IS SO ORDERED.**

Dated this 18th day of August, 2006.

/s/ *Patrick A. Conmy*

Patrick A. Conmy, Senior District Judge  
United States District Court